

APPEAL NO. 040314
FILED MARCH 24, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 13, 2004. The hearing officer determined that: (1) the compensable injury of _____, does not extend to and include an 8-9 millimeter focal disc protrusion at L4-5 and possible partial disc extrusion of the fourth intervertebral disc into the neural canal; and (2) the appellant (claimant) did not have disability from August 27, 2003, through January 13, 2004. The claimant appeals these determinations on sufficiency of the evidence grounds. The respondent (carrier) urges affirmance.

DECISION

Affirmed as reformed.

The hearing officer did not err in making the complained-of extent-of-injury and disability determinations. The claimant had the burden of proof on these issues. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). The hearing officer was not persuaded that the claimed conditions resulted from the compensable injury or that the claimant had resulting disability. In view of the evidence presented, we cannot conclude that the hearing officer's determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The claimant asserts that the hearing officer demonstrated bias in reaching his decision and requests reversal on this basis. We find no support in the record for the claimant's contention that the hearing officer was motivated by or in any way demonstrated bias against the claimant. The mere fact that the hearing officer issued a decision adverse to the claimant does not, in our view, demonstrate bias but is the prerogative of the hearing officer as the sole judge of the weight and credibility of the evidence. Accordingly, we find no basis to reverse the hearing officer's decision.

Although not raised by the parties, we reform the hearing officer's Conclusion of Law No. 3 to read, "Claimant has not had disability from August 27, 2003, through January 13, 2004," in conformity with the record and Finding of Fact No. 5.

The decision and order of the hearing officer is affirmed.

The true corporate name of the insurance carrier is **ST. PAUL FIRE & MARINE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
701 BRAZOS, SUITE 1050
AUSTIN, TEXAS 78701.**

Edward Vilano
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Thomas A. Knapp
Appeals Judge